



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2017-0075; FF09E41000 178 FXES111609C0000]

Endangered and Threatened Wildlife and Plants; Regulations for Candidate Conservation Agreements with Assurances

AGENCY: U.S. Fish and Wildlife Service (FWS), Interior.

ACTION: Regulatory review; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), announce the intention to review and potentially revise the regulations concerning enhancement-of-survival permits issued under the Endangered Species Act of 1973, as amended (ESA), associated with Candidate Conservation Agreements with Assurances. In a separate document published in today's *Federal Register*, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service announce the intention to review and potentially revise the Candidate Conservation Agreement with Assurances policy.

DATES: We will accept comments that we receive on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comments submitted electronically using the Federal eRulemaking Portal (see

ADDRESSES, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the Search box, enter docket number FWS-HQ-ES-2017-0075. Then, click on the Search button. On the resulting page, you may enter a comment by clicking on "Comment Now!"

Please ensure that you have found the correct document before submitting your comment.

- *U.S. mail or hand delivery:* Public Comments Processing, Attn: Docket No. FWS-HQ-ES-2017-0075; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike; MS: BPHC; Falls Church, VA 22041.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Request for Information**, below, for more information).

FOR FURTHER INFORMATION CONTACT: Jeff Newman, Chief, Division of Recovery and Restoration, U.S. Fish and Wildlife Service Headquarters, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2171. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Through its Candidate Conservation Program, one of the FWS’s goals is to encourage the public to voluntarily develop and implement conservation agreements for declining species prior to them being listed under the ESA (16 U.S.C. 1531 *et seq.*).

The benefits of such conservation actions may contribute to not needing to list a species, to list a species as threatened instead of endangered, or to accelerate the species’ recovery if it is listed. The FWS put in place a voluntary conservation program to provide incentives for non-Federal property owners to develop and implement

conservation agreements for unlisted species: Candidate Conservation Agreements with Assurances (CCAAs). On June 17, 1999, the policy for this type of agreement (64 FR 32726) and implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) (64 FR 32706) were made final. On May 3, 2004, we published a final rule (69 FR 24084) to revise the CCAA regulations to make them easier to understand and implement by, among other things, defining “property owner” and by clarifying several points, including the transfer of permits, permit revocation, and advanced notification of take.

To participate in a CCAA, non-Federal property owners agree to implement specific conservation actions on their land that reduce or eliminate threats to the species that are covered under the agreement. An ESA section 10(a)(1)(A) enhancement-of-survival permit is issued to the agreement participant providing a specific level of incidental take coverage should the property owner’s agreed-upon conservation actions and routine property management actions (e.g., agricultural, ranching, or forestry activities) result in take of the covered species, if it is listed. Property owners receive assurances that they will not be required to undertake any conservation actions other than those agreed to if new information indicates that additional or revised conservation measures are needed for the species, and they will not be subject to additional resource use or land-use restrictions.

Based on our past 16 years of experience with CCAs, on December 27, 2016, we revised the CCAA policy (81 FR 95164) and made necessary amendments to the CCAA regulations (81 FR 95053) to conform to the revised policy. Those revisions to the regulations clarify the level of conservation effort each agreement needs to include in

order for the FWS to approve an agreement and issue a permit. We revised the issuance criteria at 50 CFR 17.22(d)(2)(ii) and 17.32(d)(2)(ii) to include language indicating that a CCAA must provide a net conservation benefit consistent with the 2016 CCAA policy. The conservation criteria required for permit issuance were not included in the previous version of the regulations. Instead, they specifically referred to compliance with the CCAA policy, which established the criteria. Our intent was to be more clear and transparent about the level of conservation effort required for each CCAA to be approved and make it consistent with the criteria for Safe Harbor Agreements; this change also better aligned the regulations with the CCAA policy. The other major change we made to the regulations was to the duration language at 50 CFR 17.22(d)(8) and 17.32(d)(8), where we stated that the duration of a CCAA must be sufficient to provide a net conservation benefit to the covered species. The full definition of “net conservation benefit (for CCAA)” is included in part 2 of the 2016 CCAA policy. The Services are committed to strengthening the delivery of our voluntary conservation tools, such as CCAAs, by making it easier to work with us on proactive conservation efforts, thus we are soliciting public review and comment on whether to revise the 2016 CCAA regulations (and accompanying policy).

Request for Information

During the comment period (see **DATES**, above), we will accept written comments and information on our 2016 revisions to the CCAA regulations (81 FR 95053; December 27, 2016). You may submit your comments and materials by one of the methods listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be

aware that your entire comment—including your personal identifying information— will be posted on <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All comments and recommendations, including names and addresses, will become part of the record for this review.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 4, 2017

Signed: Gregory J. Sheehan

Principal Deputy Director, U.S. Fish and Wildlife Service.

Billing Code 4333–15

[FR Doc. 2017-25268 Filed: 11/21/2017 8:45 am; Publication Date: 11/22/2017]